Michigan Professional FIRE FIGHTERS UNION

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Good afternoon, Mr. Chairman and committee members.

My name is Mark Docherty; I am the President of the Michigan Professional Fire Fighters Union and a Sergeant with the Sterling Heights Fire Department.

Thank you for allowing me the opportunity to testify before you today on behalf my organization and the over 5000 firefighters it represents. Our firefighters are serving on the front lines protecting 130 different communities throughout the state of Michigan.

I come before you today to express our support of SB 397.

First I would like to provide our perspective on PA 312 and what effects the law has on our members and our communities.

P.A. 312 was adopted into law to provide for an "...alternate, expeditious, effective and binding procedure for the resolution of disputes" involving municipal employers and firefighters, police officers, emergency medical services and emergency dispatch personnel.

The Act was put in place after a series of strikes by police officers and fire fighters in the late 60's. PA 312 was carefully studied, tested and analyzed before Governor George Romney signed it into law. It has

succeeded in its intent, resulting in no strikes or work stoppages occurring throughout the 42 years the law have been in place.

P.A.312 continues to perform as intended. The intent of this law is to resolve contract disputes fairly and equitably, and eliminate strikes or work stoppages by public safety providers.

This enables us to remain on the streets and fully focused on the job of keeping our communities safe.

One misconception that we continually hear from opponents to PA 312 is that it is frequently used by firefighters and police officers to settle contracts. This is absolutely not true.

In fact the law is seldom used, although very important to the safety of the public.

In 2010, out of hundreds of counties, cities and townships negotiating agreements in good faith with their police officers and firefighters, only 28 entered into binding arbitration. And of those 28 cases, the employer, not the firefighters or police officers, won more than 60 percent of the time.

Most communities have not utilized PA 312 for decades and some never have. My own department has not been to arbitration in over 23 years.

Recent research on arbitration awards over an 11 year period, 1999-2010, shows that more than 95% of all labor contracts for firefighters and Police officers are settled at the negotiating table.

Most contracts are bargained in good faith never reaching an impasse and never requiring binding arbitration.

The law was never intended to be used frequently. Neither side wants to go to arbitration and have a 3rd party decide their issues.

Although, if the process is needed then both parties need to be assured that the process is fair and that it will resolve the impasse.

Otherwise, police and firefighters will not have confidence in the system and will possibly resort to other methods to resolve the impasse such as work stoppages, which is exactly what the law was intended to prevent.

As with any law that has been in place for decades, a review was justified. We believe this bill incorporates real reforms to the law and addresses the concerns local municipalities have had concerning consolidation into authorities.

One issue which was raised, is whether the arbitrator takes into account the communities "ability to pay" when giving an award.

P.A. 312 does currently require that the arbitrator considers the employer's ability to pay, mandating that ability to pay MUST be evaluated and considered in each arbitration award.

Section 9, subsection (c) of the Act clearly states that the "...arbitration panel shall base its findings, opinions and order upon the following factors, as applicable... (c) The interests and welfare of the public **and the financial ability of the unit of government to meet those costs."**

The language regarding ability to pay has been in the law since its inception and stipulates that the arbitrator must consider the economic impact of any award.

Our organization fully supports the requirement that an arbitrator must consider "Ability to Pay". It only makes sense that a community be able to afford the award given.

Under the current Act, the process does work and consists of an employer providing a case to the arbitrator outlining why they do not have an ability to pay.

This is achieved through thorough analysis by experts, such as a municipality's independent auditing firm, which is used in determining the employers' finances before the beginning of the arbitration hearings.

Arbitrators thoroughly examine the municipality's finances, using information provided to them by both parties, and make their final decision based on the economic status of the municipality.

Although "ability to pay" language is already in the law, this bill places the language on its own line and makes it the first issue of the ten that has to be considered by the arbitrator. This should clear up any misconceptions as to the issue.

SB 397 also places time limits on how long an arbitration case can take. Currently in the existing law, all time limits can and are waved in almost all cases. This results in some cases that may take years until an award is given. This is very costly for both the employers and the employee groups. This bill would correct that problem.

Another issue that this bill addresses is that in the current act, either party can add issues for arbitration at any point in the hearing process which complicates and prolongs the award. This bill would require that a complete and final list of issues be submitted prior to the start of the

arbitration hearings. Again creating efficiencies that will result in savings to both the employer and employee groups.

Another misconception that we continue to hear is that there is nothing in the act to allow for internal comparables. This also is not true.

As the current act requires, it first compares fire fighters to other fire fighters in communities of similar size and demographics and then takes into account internal comparables.

This language is found in the current act in sec. 9 sub section (d) which states: "Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services **and with other employees generally**."

An external comparable list is developed and almost always agreed to by both employer and employee groups.

If no agreement can be reached, the arbitrator will provide a list of comparables after both sides have provided testimony on the subject.

It is the only fair and just method to compare wages and benefits of fire fighters and police officers.

However, to better clarify that there is an internal comparable component to the law, the language in this bill was re-worded to further explain what "with other employees generally" means. The bill adds the following: **"(F) Comparison of the wages, hours and conditions of employment of other employees of the unit of government outside of the bargaining unit that is subject to**

arbitration". This should clear up any misconception that they are not being considered.

This bill also adds language to include PA 312 in any authority that is established between local governments to consolidate services.

I have testified over and over again on the fact that our organization supports and seeks consolidations amongst departments that would benefit from it.

Our organization believes that Authorities currently do have the right to PA 312. The problem is that it's not clearly stated in the act and there is no case law to support it yet. We do currently represent Authorities although they have never had the need to utilize the Act so there has been no case precedent set. This will only result in lengthy court battles and due to the uncertainty only serve to discourage consolidation by our members.

This is not what we want. We want to encourage our members to consolidate, although they have to know that their rights will be maintained.

We are not looking to expanded PA 312 to any group that currently doesn't have the right already. This bill ensures that if you currently have the right to arbitration, that right will be maintained into the Authority.

This is an important issue, one in which needs legislation to clarify and encourage consolidations by all parties to get this done.

We understand the economic reality that our communities are facing and we understand that tough decisions need to be made.

Unlike other professions, when we lose personnel to layoffs, we now have to perform the same hazardous job with fewer personnel.

This greatly increases the risk we face and the chances of us getting injured or killed on the job. Consolidations provide for the ability to reduce redundancies at the top and through efficiencies maintain the boots on the street, protecting not only our members but also the residents we are sworn to protect.

Some seek to repeal this act or gut it to a point that renders it useless. If PA 312 is amended to the point that it no longer provides a fair impasse resolution then it would set the state back decades and will jeopardize the safety of the public.

This law was put in place in 1969 as a public safety issue and remains to this day as a public safety issue.

On behalf of my 5000 members, I ask you to pass SB 397. This bill will provide real and responsible reform to a very important law. A Law that is working as intended and needs to remain in place for the safety of our firefighters and police officers and the citizens that depend on us.

I want to thank the Chairman and the committee members for this opportunity to address the committee today.

And I would be happy to answer any questions that you may have.